



Department of Justice

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JUSTICE DEPARTMENT INFORMS MICROSOFT OF PLANS FOR FURTHER PROCEEDINGS IN THE DISTRICT COURT

Action Seeks Prompt, Effective, and Certain Relief for Consumers

WASHINGTON, D.C. – The Department of Justice's Antitrust Division today advised Microsoft that it will not seek a break-up of the company in remand proceedings before the U.S. District Court. It also informed the company that it does not intend to pursue further proceedings on the tying count of the original complaint. The Department said it is taking these steps in an effort to obtain prompt, effective and certain relief for consumers.

Today's announcements were made in light of an order by the District Court directing the Antitrust Division and Microsoft to produce a joint status report by September 14, 2001, outlining proposals for further proceedings in the case. The Division advised Microsoft of its position on the tying claim and the issue of structural relief to facilitate consultations on the joint report.

In June, the Court of Appeals upheld the District Court's ruling that Microsoft had engaged in exclusionary conduct intended to maintain its monopoly in the market for PC operating systems. The District Court initially had found that Microsoft also had unlawfully tied its web browser to the operating system, but the Court of Appeals reversed and remanded the tying count for consideration under a more rigorous legal standard. The Court of Appeals also vacated the remedies imposed by the District Court, directing a new judge to fashion appropriate remedies following evidentiary hearings.

In view of the Court of Appeals' unanimous decision that Microsoft illegally maintained its monopoly over PC-based operating systems — the core allegation in the case — the Department believes that it has established a basis for relief that would end Microsoft's unlawful conduct, prevent its recurrence and open the operating system market to competition. Pursuing a liability determination on the tying claim would only prolong proceedings and delay the imposition of relief that would benefit consumers.

The Department also informed Microsoft that, in light of the Court of Appeals opinion and the need for prompt, effective and certain relief, the Department will not seek a break-up of the company into separate operating systems and applications businesses, as previously had been ordered by the court. Instead, the Department will seek an order that is modeled after the interim conduct-related provisions of the Final Judgment previously ordered in the case.

The Department will ask the court for a period of expedited discovery to investigate developments in the industry since the trial concluded, and to evaluate whether additional conduct-related provisions are necessary, especially in the absence of a break-up. The Department is seeking to streamline the case with the goal of securing an effective remedy as quickly as possible.

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